

DECISION

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**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-199953

DATE: June 18, 1981

MATTER OF: Ms. Lucy Badenhoop - [Claim for reimbursement
of cost of commercial quarters]

- DIGEST:
1. Civilian employee of Air Force on temporary duty may not be reimbursed for commercial lodging when she did not attempt to obtain statement as required by 2 JTR para. C1055 from appropriate authority that utilization of Government quarters would not be in the best interests of the Government.
 2. Determination of whether use by temporary duty employees with foreign military sales responsibilities of Government or commercial quarters will best reflect administrative costs to be charged purchasers of defense services under section 43(b) of the Arms Export Control Act, 22 U.S.C. § 2792(b) (Supp. I 1977), is to be made by the official designated by Joint Travel Regulations.

This decision is in response to the claim of Ms. Lucy Badenhoop, a civilian employee of the Department of the Air Force, for reimbursement of the cost of commercial quarters while on temporary duty (TDY) at Hill Air Force Base (AFB), Utah.

Ms. Badenhoop's permanent duty station is at McClellan AFB, California where she is employed in the area of foreign military sales (FMS). By orders dated October 1, 1979, she was assigned 16 days of TDY from October 2 to 19, 1979, at Hill AFB to attend classes in the International Logistics Program. During her TDY, she stayed in commercial quarters at the Holiday Inn, Ogden, Utah. Upon her return to McClellan AFB she submitted voucher T-3381 which included a claim for reimbursement of \$348.84 for lodging. Since she did not file a certificate of nonavailability of Government quarters, her claim for reimbursement of the cost of commercial quarters was denied by the Air Force, relying on 2 Joint Travel Regulations (JTR) para. C1055 (the Regulation) which, in relevant part, provides:

"1. GENERAL. Although an employee may not be required to utilize Government quarters, when adequate Government quarters are available but not used, the payment of the quarters portion of the

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per diem or actual expense allowances of any employee on temporary duty away from his designated post of duty may not be made except under the following conditions:

"1. when the order-issuing authority, either prior or subsequent to the travel involved, issues a statement to the effect that the utilization of Government quarters at the temporary duty station or delay point would adversely affect the performance of the assigned mission (this exception is not applicable to personnel attending training courses at an installation of the Uniformed Services);

"2. when the commanding officer (or designated representative) responsible for Government quarters at the temporary duty or delay point furnishes a statement to the effect that utilization of Government quarters was impracticable;

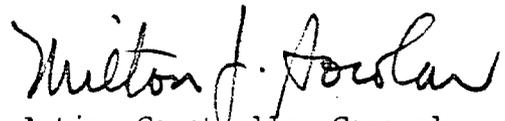
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"2. EFFECT OF ABSENCE OF STATEMENT. In the absence of a statement issued under the provisions of subpar. 1 or unless the nonavailability of adequate Government quarters can be ascertained by reference to a publication issued by the Uniformed Service concerned, it shall be assumed that adequate Government quarters were available on any day for which the employee fails to submit an appropriate statement *** indicating that such quarters were not available or not utilized on that date. A statement, issued under the provisions of subpar. 1, that the utilization of Government quarters would adversely affect the performance of the employee's assigned mission or that their utilization was impracticable or not in the best interests of the Government shall have the effect of a statement of nonavailability. Endorsements on orders are acceptable in lieu of separate statements in those Uniformed Services which endorse orders."

Ms. Badenhop contends that, since the Government is not fully reimbursed for all costs when travelers on FMS business occupy Government quarters, her occupancy of Government quarters would not have been in the best interests of the Government, and that the provisions of 2 JTR para. C1055, insofar as they apply to FMS employees, are in conflict with the statutory mandate of section 43(b) of the Arms Export Control Act, as amended, 22 U.S.C. § 2792(b) (Supp. I 1977) (the Act), which requires the Government to recover, in charges to purchasers of defense services under the Act, administrative expenses incurred by departments or agencies carrying out functions under the Act, in certain specified circumstances.

Ms. Badenhop did not attempt to have the Commanding Officer or his designated representative issue a statement to the effect that utilization of Government quarters was not in the best interests of the Government, which statement would have had the effect of a statement of nonavailability under 2 JTR para. C1055, subpars. 1 (2) and 2. She apparently decided on her own that the "best interests" exception was applicable. Since the JTR at least requires her to attempt to get such a statement and she did not comply with it, we do not see any basis to further consider her claim, and we disallow it. See B-191297, August 2, 1979; B-192271, November 8, 1978.

We do not agree with Ms. Badenhop's contention that the JTR, insofar as it is applicable to FMS employees, is in conflict with the Arms Export Control Act requirement that administrative expenses be recovered from FMS purchasers. Costs may be charged FMS purchasers irrespective of whether Government or commercial quarters are occupied. The fact that costs of one type of quarters are greater or less than the other does not give rise to conflict. The amount to be charged FMS purchasers is of no consequence with regard to the question of authority for the occupancy of commercial quarters. The regulations spell out the circumstances and requirements applicable to reimbursement for occupancy of commercial quarters and it is clear that they were not met in this case.


Acting Comptroller General
of the United States